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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 TOM M. FRANKS,

12 Petitioner,

13 v.

14 SUPERIOR COURT OF STANISLAUS  
15 COUNTY,

16 Respondent.  
17  
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No. 1:20-cv-00136-NONE-EPG-HC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATION, GRANTING  
PETITIONER SIXTY (60) DAYS TO  
ASSERT CLAIMS UNDER 42 U.S.C.  
§ 1983, AND DIRECTING CLERK OF  
COURT TO SEND PETITIONER  
PRISONER CIVIL RIGHTS COMPLAINT  
FORM AND APPLICATION TO PROCEED  
IN FORMA PAUPERIS

(Doc. No. 6)

19 Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to  
20 28 U.S.C. § 2254. On February 11, 2020, the assigned magistrate judge issued findings and  
21 recommendations recommending that petitioner be granted leave to convert his habeas petition  
22 filed to initiate this action into a civil rights action under 42 U.S.C. § 1983, because if successful  
23 the claims asserted therein would not necessarily lead to his immediate or earlier release from  
24 confinement. (Doc. No. 6). The findings and recommendations were served on petitioner and  
25 contained notice that any objections were to be filed within thirty (30) days of the date of service  
26 of that order. To date, petitioner has filed no objections, and the time for doing so has passed.

27 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
28 de novo review of the matter. Having carefully reviewed the entire file, the court concludes that

1 the findings and recommendations are supported by the record and proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The findings and recommendations issued on February 11, 2020 (Doc. No. 6) are  
4 ADOPTED;
- 5 2. The Clerk of Court is DIRECTED to send petitioner a prisoner civil rights complaint  
6 form and an application to proceed *in forma pauperis*;
- 7 3. Petitioner is GRANTED **sixty (60) days** from the date of service of this order in  
8 which to assert claims under 42 U.S.C. § 1983;
- 9 4. Petitioner shall submit an application to proceed *in forma pauperis*, completed and  
10 signed, or in the alternative, pay the \$400.00 fee for the civil rights action within **sixty**  
11 **(60) days** from the date of service of this order; and
- 12 5. If petitioner fails to assert claims under 42 U.S.C. § 1983, the instant habeas action  
13 will be dismissed without prejudice to petitioner refiling his claims in a separate  
14 § 1983 action.

15 IT IS SO ORDERED.

16 Dated: April 1, 2020

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UNITED STATES DISTRICT JUDGE